
The Compliance Connection

State Corporation Commission - Bureau of Financial Institutions
Regulatory News for Virginia Mortgage and Consumer Finance Licensees

Summer 2000



INSIDE THIS ISSUE:

The Most Common Broker Mistake.....	1 & 5
Case Against The Cash Store, Inc.....	1
The Right Side of the Law.....	2
“Other Business Notice” – Consumer Finance Licensees.....	2
Licensee Update.....	3 - 4
Surety Bond Claims.....	5

The Compliance Connection is published quarterly and is part of the Bureau's efforts to improve communication with the companies we regulate. It is distributed to Virginia mortgage, consumer finance, industrial loan and non-profit debt counseling agency licensees and other interested parties. We encourage you to read each newsletter and distribute the information to all staff members.

Suggestions and comments concerning the newsletter or its contents should be addressed to the Bureau at P.O. Box 640, Richmond, Virginia 23218-0640 or via e-mail at: nwalker@scc.state.va.us.

Welcome to the world - Carlisle M. (“CJ”) Williams, IV.

Special thanks to Nick Kyros and Jon Orne for their contributions to this issue.

The Most Common Broker Mistake:

The Bureau's position concerning the collection of broker fees without a signed written agreement was initially included in a February 5, 1993 memorandum, which was sent to all mortgage licensees. This memo was reprinted in the March 1996 and July 1999 issues of this newsletter. Despite this, numerous violations of this nature continue to be cited.

Section 6.1-422B(4) of the Code of Virginia prohibits brokers from receiving compensation from the borrower other than that specified in a written agreement signed by the borrower. As many of you know, the Examiners check the broker's contract for compensation (i.e. broker or financing agreement) executed by the borrower to determine the maximum broker fees that can be collected by the broker. The broker fees are those charged to the borrower by the broker and retained by the broker as compensation. Documented third party fees are not included in the term “broker fees”. As stated in the 1993 memo, obtaining the borrower's signature on the agreement or contract for compensation after the violation occurs is NOT acceptable as a corrective measure and results in an overcharge violation on the Report of Examination, which requires reimbursement. Likewise, disclosure of such fees on the good faith estimate does not constitute compliance with §6.1-422B(4) since the good faith estimate disclosure is not an agreement.

(continued on Page 5)

Virginia Participates in Case Against The Cash Store, Inc.

Commissioner Joe Face is participating as co-amicus in the case of Colorado v. The Cash Store, Inc., pending in Colorado. In this case, the State of Colorado is seeking review by its Supreme Court of a case brought under the States' Uniform Consumer Credit Code by the Colorado Attorney General and UCCC Administrator against a local company which purchases income tax refunds from individuals at a steep discount.

The Colorado officials contend that this activity is an unlawful consumer lending business. Commissioner Face, along with government officials and agencies of several other states, are participating in the case in support of this view.

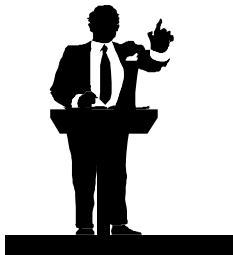
It Pays To Be On The Right Side of the Law:

Mortgage lenders and brokers with a good compliance record receive priority in processing their applications for additional offices and relocations. Although the Code of Virginia allows a maximum of thirty days for processing of these applications, the Bureau of Financial Institutions normally processes applications of licensees with a good compliance record within ten days, depending on the application volume.

An application shall be approved unless the Commission finds that a licensee has not conducted business efficiently, fairly, in the public interest and in accordance with law. The application shall be deemed approved if notice to the contrary has not been mailed to the applicant within thirty days of the date the application is received by the Commission. Delays in the approval process or denials are encountered in cases of disregard of laws and regulations, as reflected in the examination reports; an inordinate number of unresolved consumer complaints; failure to file the annual report for mortgage lenders/brokers (due March 1 annually); failure to pay assessment fees; failure to maintain a good standing status with the Clerk's Office, State Corporation Commission, by filing the required report annually and paying the required fees; relocating or establishing offices without Commission approval; and failure to inform the Bureau of changes in directors and senior officers, as required by §6.1-416 of the Code of Virginia.

Compliance with laws and regulations simplifies and streamlines the regulatory process. It saves time and money, prevents interruption of services to the consumer and benefits everyone.

Any questions you may have concerning the application process should be directed to Deputy Commissioner Nick Kyrus or his staff at (804) 371-9690 (e-mail: nkyrus@scc.state.va.us)



Attention New Mortgage Licensees:

Friday, August 11, 2000 is the date of the next orientation for new mortgage licensees. Companies who were licensed between April 1st and June 30th should have received information about the session. Orientation begins at 9:30 a.m. at our office and concludes around 4:00 p.m. Licensees who were unable to attend previous sessions should also register. Space is limited, but we will make every attempt to accommodate interested parties. Call Carol Foster at (804) 371-9701 to register!

“Other Business” Notice – Consumer Finance Licensees:

Section 6.1-267 of the Virginia Consumer Finance Act was amended (effective July 1, 2000) to eliminate the requirement to apply for authority to conduct an “other business” in a licensed consumer finance office. Licensees are now required to provide the Commission thirty days prior written notice. Upon receipt of the notice the Commission may require additional information relating to the other business, such as how and by whom it will be conducted. The Bureau has developed a “Notice to Conduct Consumer Finance Business and Other Business at Same Location” form (CCB – 4403), which is available on our website:

<http://www.state.va.us/scc/division/banking/forms/ccb4403.pdf> Questions?? Call the Corporate Structure and Research Section at (804) 371-9690.

<http://www.state.va.us/scc>

Our website contains a lot of helpful information – check it out and let us know what you think!



License Update:

The following is a list of companies who have surrendered their license, had their license revoked, application denied or been fined by the Commission **since April 15, 2000**. We hope the list is helpful in keeping track of companies with which you do business. **These lists are accurate as of July 15, 2000**. Call the Bureau if you have a question concerning a recent denial, surrender or regulatory action taken by the Commission.

MORTGAGE LICENSES SURRENDERED SINCE APRIL 15, 2000

ML – 218 First Colonial Mortgage of NJ, Inc. – 4/15/00	MLB – 580 Residential Mortgage Corp. – SURRENDERED BROKER AUTHORITY ONLY – NOW ML - 462
MB – 795 Joo Dong Kim t/a Dime Mortgage Service – 4/17/00	MLB – 623 Pacific Guarantee Mortgage Corporation – 5/25/00
ML – 367 Marina Mortgage Company, Inc. d/b/a Consumer First Mortgage – 4/20/00	MLB – 610 Prism Mortgage Company – 5/25/00
ML – 271 AMRESKO Residential Mortgage Corporation – 4/26/00	MLB – 556 Resource Mortgage Banking – SURRENDERED BROKER AUTHORITY ONLY – NOW ML – 464
MLB – 523 National Lending Center, Inc. – 4/28/00	MLB – 281 Beard Development Corporation – 5/30/00
MB – 1396 Coastal Mortgage and Investments, Inc. – 4/30/00	MB – 1304 United Trust Mortgage Services, Inc. – 5/31/00
MB – 1067 The Mortgage Bank., L.C. – 5/1/00	MB – 1181 Intuit Lender Services, Inc. – 6/1/00
MLB – 257 NF Investments, Inc. – 5/5/00	MLB – 632 EEMCO The Mortgage Service Station Inc. d/b/a HomeSense Financial Corp. – 6/5/00
MLB – 404 Citizens Mortgage Corporation – 5/5/00	MLB – 269 ProCapital Funding Corp. – 6/6/00
MB – 1160 Fidelity Mortgage and Finance Co. – 5/5/00	ML – 402 HarvestOne Funding, L.L.C. – 6/15/00
MB – 1006 Complete Mortgage Corporation – 5/8/00	ML – 288 MorEquity, Inc. – 6/16/00
MB – 521 Maryland Financial Resources, Inc. – 5/8/00	ML – 251 Fairbank Mortgage Corporation – 6/19/00
MLB – 208 Washington Suburban Financial Services, Inc. – 5/8/00	MB – 1388 Affinity Group Mortgage, Inc. – 6/22/00
MB – 1271 Franklin Financial Mortgage Corporation – 5/10/00	MLB – 384 NCS Mortgage Services, L.L.C. – 6/30/00
MB – 984 Payne Financial Services, Ltd. – 5/10/00	MB – 1001 Select Mortgage Services, L.L.C. – 6/30/00
ML – 248 Equi-Financial, L.P. – 5/15/00	ML – 295 Indymac, Mortgage Holdings, Inc. -- 7/1/00
MB – 621 Mortgage Resources Incorporated – 5/22/00	MLB – 651 IndyMac, Inc. d/b/a LoanWorks – 7/1/00
	MB – 1022 Res-Comm Mortgage Company, Inc. – 7/11/00

MORTGAGE LICENSE REVOCATIONS SINCE APRIL 15, 2000

THE FOLLOWING LICENSES WERE REVOKED ON MAY 17, 2000 FOR FAILURE TO FILE THE ANNUAL REPORT REQUIRED BY VIRGINIA CODE §6.1-418:

MLB – 445 First Home Acceptance Mortgage Corporation

MB – 895 American Funding Network, Inc.

MB – 78 The Phoenix Financial Corporation of Virginia, Inc.

MB – 504 Centurion Financial, Ltd.

MB – 816 Eastern Residential Mortgage, Inc.

MB – 931 Federal Home Funding Corporation

ML – 298 Great American Home Mortgage Corporation

MB – 1061 Home Funding Mortgage Corporation

MB – 1286 H K Stone Financial Corp.

MB – 1277 Madison Mortgage, Inc.

MLB – 572 Mortgage Funding Network, Inc.

MLB – 438 National Finance Corporation

MLB – 386 National Mortgage Corporation d/b/a NMC Mortgage Corporation

MB – 1293 Overlake Mortgage Company

MB – 1221 Service Center of America, Inc. d/b/a Financial Funding Group

MB – 934 Triangle Funding Corporation

MLB – 504 Vista Capital Funding, Inc.



PENALTIES PAID BY MORTGAGE LICENSEES SINCE APRIL 15, 2000

MB – 1281 1st Continental Mortgage, Inc. – 5/12/00 – Paid \$250 for failure to obtain approval prior to the relocation of an office

MLB – 459 University Mortgage, Inc. – 7/6/00 – Paid \$5,000 for various violations of the Mortgage Lender and Broker Act

ML – 205 Conseco Finance Servicing, Corp. – 7/6/00 – Paid \$500 for failure to obtain approval prior to the relocation of an office

OTHER PENALTIES PAID SINCE APRIL 15, 2000

Specialty Finance Partners – 6/30/00 paid \$1,000 for failure to obtain commission approval prior to acquiring the stock of Lending Tree, Inc. (MB – 1120)

Michael J. Rappaport – 7/6/00 paid \$1,000 for failure to obtain Commission approval prior to acquiring the stock of Residential Lending Corporation (MLB – 591)

SURETY BOND CLAIMS

Since July 1, 1999 the following bond claims have been filed by the Bureau and paid to borrowers:

ML – 247 Morcap, Inc. -- \$937.50 bond claim paid 11/8/99 – LICENSE SURRENDERED 4/28/99

MB – 712 Prestige Financial Services Corporation -- \$1,035.50 bond claim paid 4/21/00 – LICENSE SURRENDERED 7/21/99

MB – 1100 Alliance Home Mortgage Corporation -- \$886.90 bond claim paid 4/18/00 – LICENSE SURRENDERED 2/25/99

MLB – 180 United Mortgagee, Inc. -- \$1,825.31 bond claim paid 4/20/00

There are currently eleven additional bond claims pending, totaling \$38,192.00



Broker Mistake: (continued from Page 1)

The law is very clear – if there is no written agreement there can be no payment of broker fees (i.e.: “points, processing fee). This topic is discussed in detail during the quarterly Mortgage Orientation for new licensees, yet we continue to find such violations.

As you know, the Bureau holds a surety bond in the amount of \$5,000 for mortgage brokers and \$10,000 for mortgage lenders and mortgage lenders/brokers. One purpose of the bond is to protect borrowers or prospective borrowers from licensees who fail to properly account for fees received or comply with applicable laws, rules and regulations. We provide licensees ample time to respond and provide documentation to substantiate the fees they collect, but when “supporting” documentation is inadequate or no response is received, we will file a claim against the bond to provide the borrower restitution. The number of bond claims filed by the Bureau has increased in recent years due to uncorrected overcharges (see “Surety Bond Claims”). Claims are typically filed when (1) licensees go out of business without refunding overcharges cited in the Report, (2) licensees cannot properly dispute the facts found by the Examiner but refuse to reimburse borrowers for the overcharges; and/or (3) licensees never respond to the Examination Report or the overcharges cited in the Report.

IMPORTANT COMMISSION TELEPHONE NUMBERS



Consumer Finance and Mortgage Examinations(804) 371-9701

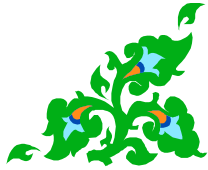
Licensing (applications, name changes, relocations).....(804) 371-9690

Consumer Complaints.....(804) 371-9705

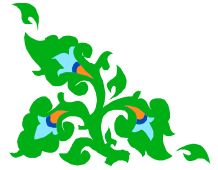
Banks and Savings Institutions.....(804) 371-9704

Corporate Information – Clerk’s Office.....(804) 371-9733

FAX Number for the Bureau of Financial Institutions.....(804) 371-9416



The Commission will be closed on Monday, September 4, 2000 in observance of Labor Day and on Monday October 9, 2000 for Columbus Day.



**Bureau of Financial Institutions
State Corporation Commission
P.O. Box 640
Richmond, Virginia 23218-0640**

**IMPORTANT REGULATORY
INFORMATION ENCLOSED!!!**